IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FIFTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO: 22039 of 1996

Between:

K. Devaiah S/o Venkataramanaiah
District Schedule Caste Coop. Society Ltd., Khammam Dist.
R/o Khammam

..... PETITIONER

AND

1 The A.P. Schedule Caste Coop. Finance Corpn.

Hyderabad rep. by M.D.
2 The District Collector/Chairman District S.C.Coop.

Society Ltd., Khammam

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction, particularly one in the nature of writ of mandamus declaring the action of the respondents in not regularising the petitioner's services in the cadre of Asst. Engineer though he has been working for the last nine years as Asst. Engineer and not giving him the scale of pay attached to the post of Asst. Engineer as wholly illegal, arbitrary and voilative of Arts. 14 & 16 of the Constitution of India.

Counsel for the Petitioner: MR.M.PANDURANGA RAO

Counsel for the Respondents: MR.M.V.S.SURESH KUMAR

The Court made the following:

O R D E R:

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Heard both sides.

The only question involved in this writ petition is whether the action of the respondents in not regularising the service of the petitioner in the category of Assistant Engineer though he has been working all along since the date of appointment is justified.

The case of the petitioner, in brief, in this writ petition, where he seeks a writ of Mandamus for the aforesaid relief, is that subsequent to the written test, interview and after due selection, he joined duty in May, 1987. Thereafter, he has been discharging services as Assistant Engineer and all his proceedings are being referred to as Assistant Engineer only and that his latest posting also shows his designation as Assistant Engineer. Further, it is pointed out that earlier for similar such relief, the petitioner filed W.P.No.1792 of 1995, wherein, this court, by order dated 07-08-1995, observed that the petitioner is claiming regularisation of his service as Assistant Engineer and the said order also has to be borne in mind while considering his case. It is represented that in spite of the said direction his case has not been considered. Hence, the writ petition.

The learned counsel appearing on behalf of the respondents submitted that in the additional counter-affidavit filed it was stated that the case of the petitioner has already been rejected as long back as on 25-02-1996 by memo issued by the District Scheduled Castes Cooperative Society Limited through the District Collector who is the Chairman of the said Society and the said memo has been challenged by the petitioner. Hence, the petitioner now cannot seek any such relief once again.

On considering the submissions made and on perusal of the material available on record, the only objection of the petitioner is the issuance of memo dated 25-02-1996 stating that his case has been rejected. However, on perusal of the said memo, it is seen that there is no rejection of the claim of the petitioner nor there is any observation on his entitlement. The only observation made in the said memo is that the said office is not competent to consider his request.

In view of the same, it cannot be said that the said order is one for rejection nor will it amount to rejection on merits. In the circumstances, there is absolutely no justification on the part of the respondents in denying the claim of the petitioner, especially when they are extracting the services of the petitioner as Assistant Engineer all along.

The writ petition is accordingly allowed. The respondent shall proceed with the case of the petitioner and pass appropriate orders, in accordance with law, within a period of four weeks from today. No costs.

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(**B. PRAKASH RAO, J**)

Date: 25-11-2004

ghn

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Thursday, the twenty fifth day of November, Two thousand and Four.

To

1 The Managing Director, A.P. Schedule Caste Coop. Finance Corpn.

Hyderabad.
2 The District Collector/Chairman District S.C.Coop.

Society Ltd., Khammam

3 Two C.D. Copies.